

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

ALEXANDER BERNARD KASPAR,
Debtor.

TOWN OF PUTNAM VALLEY,

Appellant,
v.
ALEXANDER BERNARD KASPAR,
Appellee.

No. 20-CV-393 (KMK)

ORDER

KENNETH M. KARAS, District Judge:

In this Appeal, the Town of Putnam Valley (“Appellant” or “Town”) challenges the bankruptcy court’s decision to reimpose the automatic stay with respect to the Town’s state-court litigation against Debtor-Appellee Alexander Kaspar (“Debtor” or “Kaspar”). (*See* Br. for Creditor-Appellant (“Appellant Br.”) 2–3 (Dkt. No. 8).) Appellant argues—and the bankruptcy court itself had previously concluded—that the Town’s enforcement action against Kaspar is exempt from the automatic stay because it constitutes an action “to enforce [the Town’s] police or regulatory power,” 11 U.S.C. § 362(b)(4). (*See* Appellant Br. 5, 12–13.)

The purpose of the Town’s prolonged state-court litigation against Kaspar has been to remediate certain environmental damage on Kaspar’s property and to bring the property into compliance with state and local land-use regulations. (*See id.* at 4, 13.) But on November 17,

2020, the Honorable Cecelia G. Morris, Chief Bankruptcy Judge for the Southern District of New York, granted an application that would appear to effectuate this purpose. (*See Order Authorizing the Retention & Employment of Environmental Consulting & Management Services, Inc.* (“Retention Order”) 2 (Dkt. No. 223, 18-36862 Dkt.).) Specifically, Judge Morris authorized Debtor to retain and employ Environmental Consulting and Management Services, Inc. (“ECMS”) as his environmental consultant under “the terms set forth in [his] [a]pplication.” (*Id.*) As set forth in Debtor’s application, ECMS “[will] spearhead the Debtor’s rehabilitation plan on [the subject] Property, confirm [that] any and all hazardous materials [are] removed from the Property[,] and coordinate the remediation with the New York State Department of Environmental Conservation to ensure it meets all New York State requirements.” (Debtor’s Appl. for Entry of Order Authorizing the Employment of Environmental Consulting & Management Services 1–2 (Dkt. No. 199-2, 18-36862 Dkt.).)

In view of Judge Morris’s Retention Order, the Parties are hereby directed to file simultaneous submissions by no later than Friday, December 4, 2020 discussing whether the Town’s pending appeal, as well as the Motion To Dismiss filed by Debtor-Appellee in response, are now moot. Submissions are not to exceed 10 pages.

SO ORDERED.

DATED: November 23, 2020
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE